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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/556,852 | 04/21/2000 | Charles A. Lieder | 013129/00025 | 6369 |

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Locke Liddell & Sapp LLP
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EXAMINER

MEDLEY, MARGARET B

ART UNIT

PAPER NUMBER

1714

DATE MAILED: 06/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/556,852

Applicant(s)

LIEDER ET AL.

Examiner

Margaret B. Medley

Art Unit

1714

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2002 and 09 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

The amendments in Papers Nos. 20 dated October 11, 2002 amending claim 23 and 26 and the declaration Paper No. 19 dated October 11, 2002 have been entered of record.

The response and declaration in Paper Nos. 23 and 24 dated April 9, 2003 have been entered of record.

The pending claims of record are claims 1-29.

Claims 1, 4-9, 13-18 and 21-29 remain rejected under 35 U.S.C. 102(b) as being clearly anticipated by Jarvis (Jarvis) 5,679,117, note column 5, lines 3-29 and 65-67, column 6, lines 3-4 and 20-28.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-22 for reasons made of record in Paper No. 6 dated April 11, 2001 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Malfer et al (Malfer) 6,048,373 combined with Jessup et al (Jessup) 5,288,393.

Claims 1-29 for reasons made of record in Paper No. 6 dated April 11, 2001 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Niebylski 4,317,657 in view of Cunningham et al (Cunningham) 5,551,957 and 5,679,116.

Applicant's arguments filed October 11, 2002 and April 4, 2003 and the Declarations dated October 11, 2002 and April 4, 2003 have been fully considered but they are not persuasive.

In view of applicants' arguments and declaration, the rejection under 102(e) over Scott et al 6,290,734 B1, the 102(b) over Orr and the 102(b) rejections over the Re-dated Gasoline Data Third Party Source are withdrawn.

Applicants' arguments with respect to the 102(b) rejection over Jarvis 5,679,117 is not convincing in that patentee clearly teaches that the 20% volume of new product is added to 80 octane gasoline producing a resulting mixture of 92.8 octane and vapor pressure in the range of 4 to 19 psi column 5, lines 5-28 that anticipates the instant claims. Jarvis further teaches that the final product (pump gasoline) has a vapor pressure in the range from 6 to 8 psi, note column 6, lines 26-28 that anticipates the instant claims and rebuts applicants' arguments and the Rule 132 Declaration of Lieders.

To clarify the record as stated on page 4 of Paper No. 17 dated June 4, 2002 and set forth supra the 103 rejection based on claims 1-29 over Niebylski 4,317,657 and Cunningham 5,551,957 and 5,679,166 and the 103 rejection over claims 1-22 based on Malfer et al 6,048,373 combined with Jessup et al 5,288,393 are maintained and applicants are required to address the rejections. The statement made at page 6 in the first paragraph with respect to the 103 rejections over Malfer and Jessup, and Niebylski and Cunningham was an inadvertent error.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret B. Medley whose telephone number is (703) 308-2518. The examiner can normally be reached on Monday--Friday from 7:30 a.m. to 6:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (703) 306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

M.B. Medley/dh
June 24, 2003


MARGARET MEDLEY
PRIMARY EXAMINER